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International cooperation in combating transnational crime

Use and application of United Nations standards and norms in crime prevention and criminal justice

Technical cooperation, including resource mobilization, and coordination of activities: Cooperation with other United Nations bodies and other entities

Statement** submitted by Centro Nazionale di Prevenzione e Difesa Sociale, a non-governmental organization in consultative status with the Economic and Social Council (category II), on behalf of the International Scientific and Professional Advisory Council.

The Secretary-General has received the attached statement,*** which is circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31 of 25 July 1996.

* E/CN.15/1997/1.

** The views expressed in this statement are those of the author, and do not necessarily reflect the views of the United Nations Secretariat.

*** This statement is reproduced in the form in which it was received .

“ISPAC Statement “
to the
Commission on Crime Prevention and Criminal Justice
at its sixth session
(Vienna, Austria, 28 April to 9 May 1997)

The International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme (ISPAC) and the Centro Nazionale di Prevenzione e Difesa Sociale (CNPDS) organized, in cooperation with the Crime Prevention and Criminal Justice Division of the UN Office at Vienna and with the support of the Ministries of Justice and Interior of Italy, a major International Conference on “Migration and Crime: global and regional problems and responses”. It was held in Courmayeur, Mont Blanc (Italy), from 5 to 8 October 1996, following the general meeting of the ISPAC Membership. The Conference was another in the series of major events sponsored by ISPAC, such as the 1994 International Conference on Money Laundering, also convened in Courmayeur, Mont Blanc, with the support of the Fondazione Centro Internazionale su Diritto, Società e Economia, and the ancillary meeting on Migration and Crime, held at the Ninth UN Congress on the Prevention of Crime and the Treatment of Offenders (Cairo, 29 April - 9 May 1995), which provided valuable input and facilitated the Conference’s planning. The presentations made in Cairo were published in a volume* distributed to the 170 registered Courmayeur Conference participants, who included European Union and Italian Government dignitaries, representatives of international organizations and individual experts. The multidisciplinary trilingual Conference (English, French and Italian) provided a forum of over 55 programme presentations, as well as a lively discussion on salient issues and possible follow-up. The Proceedings of the Conference will be published in the series of ISPAC publications.

* Ernesto U. Savona. “Responding to Money Laundering”. Harwood Academic Publishers. Amsterdam (The Netherlands). 1997.

Speaker after speaker stressed the complexity of the relationship between migration and crime, in particular, the lack of a direct causal connection between them. Illegally entering immigrants are generally not criminals, but those traffickers assisting them often are. On the other hand, the high percentage of foreigners among the prison populations of many countries, especially in Europe (e.g. 1/3 in Italy) was noted: it can be explained in terms of various factors, including uprootedness, combined with the lack of social integration. The degree of violation of laws varies considerably, ranging from minor misdemeanors, linked to some migrants' illegal status, to very serious violent crimes. There is great variety in terms of the offences committed by foreign migrants; there is also considerable variety in the types of migrants: economic migrants in search of job opportunities and political asylum seekers are the most obvious categories; however there are also migratory criminals who use one country to prey on the unwary and the other, for shelter against the consequences. The distinction between legal and irregular migrants (sometimes inappropriately termed "illegal aliens") says in itself little about their respective involvement in crime. However, these undocumented migrants tend to be singled out as the main culprits, while they are more often victims than perpetrators, often being subject to extortion and blackmail, not infrequently by their own compatriots.

While migration-linked crime is most often seen as a problem in host (and to a lesser extent, in transit countries), the source of migration pressure lies primarily in the push factors in the countries of origin. Poor governance, economic mismanagement, crimes against nature and acts of omission leading to ecological neglect contribute to an anomic situation. Governmental criminality involving gross human rights violations for political control, which sometimes even takes the form of genocide, is a major cause of exodus from zones of turmoil to zones of peace. However, the lack of sufficient local economic opportunities in overcrowded Third World cities and the income gap between countries of destination and of origin (and their misleading portrayal on

television) were also considered important factors in the decision to emigrate among "economic migrants". The latter group should not be confused with environmental refugees who have no real choice to stay behind and whose moral right to seek opportunities to live elsewhere deserves more prominent consideration. It was generally agreed that most migration results from push factors in countries of origin and not from pull factors of countries of destination.

Crime associated with the transit stage between source and ultimate host countries can be partly attributed to their being caught in the contradiction that, especially since 1989, capital can move freely around the world while labour cannot (except in the European Union). This mismatch between the right to emigrate and to remigrate, on the one hand, and the absence of a right to immigrate, on the other, is bound to play into the hands of organized crime which exploits this structural defect of the international system, creates sophisticated false documents and underground channels of migration while exploiting those willing and/or forced to emigrate. However, while the smuggling of people across borders is generally organized, by no means is all of it under the control of what is commonly known as "organized crime"; a distinction must be made between illegal migration and trafficking. Especially in the latter case, migrants, in the country of destination risk being forced into crime by the organization that smuggled them into a country in the first place. On the whole, migrants run a higher risk of becoming victims of crimes rather than criminals themselves. They run, for instance, the risk of becoming victims of hate crimes by racist and right-wing native groups who portray these newcomers as unwanted competitors on a labour and housing market that is already strained. While such hate crimes are by definition largely inter-ethnic, a considerable part of the victimization is intra-ethnic within the migrant communities. However, for certain categories of crime, such as robbery, there is, in some countries, also a sizable share of foreigners involved. The criminality of these individuals is then used to legitimize racist violence against all migrants.

Statistics on crimes by and against foreigners are difficult to compare from country to country due to shortcomings in definitions and reporting. However, there is a considerable body of statistical evidence from various countries in the twentieth century that indicates that first generation immigrants in both North America and Europe (regions with relatively reliable longitudinal statistics) committed fewer crimes than comparable groups of citizens in the host country. Their children, however, may tend, in at least some countries, to surpass the crime rates of their peers in the host country. Here there is a task for those who are in charge of social integration policies: special efforts should be made to facilitate successful acculturation in schools and civil society, and in professional training, as marginalization encourages criminal activities. An especially worrisome feature, however, are those first generation criminals who come from failed States in Eastern and Southern Europe and use their former skills in the secret services, the military and policing to further their private careers as transnational criminals operating in the framework of larger organized crime units engaged in the smuggling of drugs, arms and human beings (e.g. for prostitution), as well as extortion and intimidation. To cope with this type of sophisticated and brutal criminality, law enforcement agencies must both be upgraded and become active partners in strengthened international cooperation against crime.

However, it was repeatedly pointed out at the conference that it would be a mistake to deal with crime problems linked to migration only in terms of law enforcement. Rather, a socio-economic policy approach, removing some of the criminogenic factors and fostering a more balanced and coordinated (im)migration policy consistent with international law is required. Migration, it was stated, was as old as recorded history and a natural part of the human experience. Migrants were, and are, often a dynamic and valuable addition to a society and to its further development, and should be treated with consideration and respect as human beings and carriers of the cultural heritage of mankind. Several speakers stressed that, in addition to the policies of trade liberalization towards, and improvement of employment opportunities in, source

countries, and in better integration trajectories in host countries, there is also a need for a sustainable migration regime that regulates and channels, rather than blocs and criminalizes what is a natural and as such inevitable flow of human beings. The importance of regional if not global harmonization of migration policies, of creating a transparent regime that is regularly reviewed if one wants to avoid unwanted displacement of problems and people, was stressed by several speakers. The real threat, it was pointed out, is often not (clandestine) migration itself, but the exploitation of it by organized crime if there is no legal solution to accommodate the human urge to migrate. The use of police solutions to the problem of migration, on the one hand, and the use of immigration polices to deal with crime, on the other, give rise to confusion among the public which, in turn, reduces the chance of arriving at effective but humane policies in either field. Many speakers stressed the need to redirect funds towards genuine policies of early warning and prevention - a topic which ISPAC has decided to focus on in its 1997 Conference on:

“Violent Crime and Conflict:

Towards early Warning and Prevention Mechanisms”